UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:17-cy-306-FDW

KERRY ADAM SHINE, JR.,)	
)	
Plaintiff,)	
)	
vs.)	
)	<u>ORDER</u>
)	
CHARLOTTE MECKLENBURG)	
POLICE DEPARTMENT, et al.,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court on its June 12 and October 11, 2018, Orders requiring Plaintiff to return the filled-out summons forms. (Doc. Nos. 10, 11).

On June 12, 2018, the Complaint passed initial review on Fourth Amendment claims against Defendants Baswell, Greene, Miranda, and Amos. (Doc. No. 10). The Court ordered Plaintiff to return filled-out summons forms to the Court so that the U.S. Marshal could effectuate service on Defendants. (Doc. No. 10 at 8). Plaintiff failed to comply so, on October 11, 2018, the Court ordered Plaintiff to either return filled-out summons forms or show cause why he had failed to do so within 14 days. (Doc. No. 11). He was cautioned that, if he failed to comply, this action would be dismissed without further notice. (Doc. No. 11 at 1-2). Plaintiff has failed to return filled-out summons forms or explain his failure to do so, and the time for responding to the October 11 Order has now expired.

Plaintiff appears to have abandoned this case, and the Court is unable proceed. This case is therefore dismissed without prejudice. Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any

claim against it."); <u>Link v. Wabash R.R. Co.</u>, 370 U.S. 626, 631-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, a district court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that:

- (1) This action is **DISMISSED** without prejudice for Plaintiff's failure to comply with this Court's Orders dated June 12 and October 11, 2018.
- (2) The Clerk of this Court is directed to terminate this action.

Signed: November 5, 2018

Frank D. Whitney

Chief United States District Judge